

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MICHAEL BAINBRIDGE, on behalf of)	CASE NO.: 5:16-cv-00555
himself and all others)	
similarly situated,)	JUDGE BENITA Y. PEARSON
)	
Plaintiff,)	
)	
vs.)	<u>PRELIMINARY ORDER</u>
)	<u>APPROVING CLASS ACTION</u>
MEDLINE INDUSTRIES, INC.)	<u>SETTLEMENT AGREEMENT AND</u>
)	<u>NOTICE</u>
Defendant.)	

Plaintiff Michael Bainbridge (“Representative Plaintiff”) and Defendant Medline Industries, Inc. (“Defendant”) have moved the Court to preliminarily approve, as fair and reasonable, a Class Action Settlement Agreement (“Settlement Agreement”) between Representative Plaintiff and Defendant pursuant to Fed. R. Civ. P. 23(e).

Having reviewed the Settlement Agreement, as well as the Parties’ Motion for Approval of Class Action Settlement Agreement (“Motion for Preliminary Approval”), the Declaration of Anthony J. Lazzaro appended thereto, and the pleadings and papers on file in this Action, and for good cause established therein, the Court enters this Preliminary Order granting preliminary approval, and approving notice to class members, as follows:

1. Unless otherwise defined, all terms used in this Preliminary Order have the same meanings as defined in the Settlement Agreement.
2. On March 7, 2016, Representative Plaintiff Michael Bainbridge filed this Action as a collective action under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201-219, as

well as a “class action” pursuant to Fed. R. Civ. P. 23 under the Ohio Minimum Fair Wage Standards Act (“OMFWSA”), O.R.C. § 4111.03. On May 12, 2016, Representative Plaintiff filed his First Amended Complaint alleging the same causes of action, but narrowing the scope of the alleged violations.

3. Between May and August 2016, the Parties engaged in informal yet comprehensive discovery regarding Plaintiffs’ claims and Defendant’s defenses to such claims. Between July and August 2016, the Parties engaged in settlement negotiations, and ultimately reached an agreement on August 19, 2016 to settle the Action on the terms set forth in this

4. The Parties’ Motion for Preliminary Approval was filed on September 23, 2016.

5. The Settlement Agreement proposes to settle claims of Representative Plaintiff and the proposed Class. The proposed class settlement is subject to approval by the Court pursuant to Fed. R. Civ. P. 23(e).

6. The issues in this case were contested. A Settlement Agreement was achieved after arms-length and good faith negotiations between the Parties and their counsel, who have extensive experience litigating FLSA and OMFWSA claims.

7. As to Representative Plaintiff and the Class, the Court finds that the proposed settlement class qualifies for provisional certification under Rule 23(a) and (b)(3) and the proposed settlement qualifies for preliminary approval under Rule 23(e). The proposed settlement class satisfies Rule 23(a)’s requirements of commonality, numerosity, typicality, and adequacy of representation, as well as Rule 23(b)’s requirements of predominance and superiority. Representative Plaintiff Michael Bainbridge is an adequate representative of the Class in that he is a member of that class and possesses the same interests and suffered the same alleged injuries as the class’s other members. The definition of the Class encompasses persons

with like factual circumstances and like claims. The settlement payments made available to the members of the Class are commensurate with their claims. The Court finds there is sufficient basis to conclude preliminarily that the proposed settlement is fair, reasonable and adequate as to the Class.

8. The Court provisionally certifies the Class, as defined in Paragraph 4 of the Settlement Agreement, pursuant to Rule 23(a) and (b)(3). The Court approves Representative Plaintiff Michael Bainbridge as Class Representative of the Class, and appoints as class counsel Anthony J. Lazzaro, Chastity L. Christy, and Lori M. Griffin of The Lazzaro Law Firm, LLC and Hans A. Nilges and Shannon M. Drahler of Nilges Drahler LLC.

9. The Court provisionally approves the Service Award to Representative Plaintiff in recognition of his service in this Action.

10. The Court provisionally approves the payment of attorneys' fees and expenses to Class Counsel as provided in the Settlement Agreement.

11. The Court grants preliminary approval of the proposed settlement as to the Class under Rule 23(e).

12. The Court directs that the members of the class be given notice of the pendency of this Action, the proposed settlement, and the date of a hearing ("the Fairness Hearing") at which final approval of the proposed settlement may be considered. The proposed Notice attached as Exhibit D to the Settlement Agreement is approved as to substance, form, and manner of distribution.

13. The Fairness Hearing will be held on _____ [DATE TO BE SET BY COURT APPROXIMATELY 73 DAYS AFTER THIS ORDER IS ENTERED] at _____ [TIME TO BE SET BY COURT]. Class Members requesting exclusion

from the Class and/or objecting to the Class or the settlement must timely request exclusion and/or file objections in the time and the manner set forth in the form of Notice attached as Exhibit D to the Settlement Agreement. Specifically, Class Members must take such steps by not later than thirty (30) days after the initial mailing of Notice.

14. The Court approves the proposed Class Notice and orders that it be distributed to the members of the class in the manner described in the Settlement Agreement.

15. Prior to the Fairness Hearing, Class Counsel shall file with the Court a Declaration verifying that the Class Notice was distributed to the members of the class in the form and manner approved herein.

16. The Parties shall file papers in support of Final Approval of the Settlement Agreement no later than fifteen (15) days after the deadline for Class Members to opt-out of the Settlement and/or object to the Settlement.

17. The Court orders that, pending Final Approval, each Class Member is preliminarily enjoined from commencing, prosecuting or maintaining in any court other than this Court any claim, action or other proceeding that challenges or seeks review of or relief from any order, judgment, act, decision or ruling of this Court in connection with this Settlement Agreement.

IT IS SO ORDERED this _____ day of _____, 2016.

Honorable Benita Y. Pearson
United States District Court Judge